

**LODI CITY COUNCIL  
REGULAR CITY COUNCIL MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
WEDNESDAY, FEBRUARY 20, 2002**

**C-1     CALL TO ORDER / ROLL CALL**

The City Council Closed Session meeting of February 20, 2002 was called to order by Mayor Pennino at 5:35 p.m.

Present: Council Members – Hitchcock (arrived at 5:42 p.m.), Howard, Land, and Mayor Pennino

Absent: Council Members – Nakanishi

Also Present: City Manager Flynn, City Attorney Hays, and City Clerk Blackston

**C-2     ANNOUNCEMENT OF CLOSED SESSION**

- a) Prospective lease of property located at 100 East Pine Street, Lodi, CA, (APN 043-072-01); the negotiating parties are the City of Lodi and the Lodi Adopt-A-Child Foundation, a non-profit 501(c) 3 community-based organization; price and terms of the lease are under negotiation; Government Code §54956.8
- b) Prospective acquisition of real property located at 307 West Elm Street, Lodi, CA (APN 037-270-17); the negotiating parties are City of Lodi and James E. and Carol A. Dean TR; Government Code §54956.8
- c) Prospective acquisition of real property located at 541 East Locust Street, Lodi, CA (APN 043-202-14); the negotiating parties are City of Lodi and Pete and Helen Perlegos; Government Code §54956.8
- d) Negotiate modification(s) to land lease for White Slough Water Pollution Control Facility Property; negotiating parties are City of Lodi and Bechthold-Kirschenman Farms; Government Code §54956.8
- e) Actual litigation: Government Code §54956.9(a); one case; *Citizens for a Quiet Kofu Park vs. City of Lodi*, San Joaquin County Superior Court Case No. CV 014871

**C-3     ADJOURN TO CLOSED SESSION**

At 5:35 p.m., Mayor Pennino adjourned the meeting to a Closed Session to discuss the above matters.

The closed session adjourned at 7:02 p.m.

**C-4     RETURN TO OPEN SESSION / DISCLOSURE OF ACTION**

At 7:13 p.m., Mayor Pennino reconvened the City Council meeting, and City Attorney Hays disclosed the following actions.

In regard to Item C-2 (a), the Council gave direction to its negotiator regarding the terms and conditions of the lease agreement between the City and the Lodi Adopt-A-Child Foundation for property located at 100 East Pine Street, Lodi, CA (APN 043-072-01).

In regard to Item C-2 (b), a settlement proposal was accepted by the Council in regard to the acquisition of property at 307 West Elm Street, Lodi, CA (APN 037-270-17).

In regard to Item C-2 (c), the Council authorized a final offer letter regarding the acquisition of property at 541 East Locust Street, Lodi, CA (APN 043-202-14).

Item C-2 (d) involved discussion of lease terms between the City and Bechthold-Kirschenman Farms. A rent reduction had been requested due to water flows and water condition. The Council provided direction with regard to this matter, as well as directing billing to Pacific Coast Producers relative to revenue loss.

In regard to Item C-2 (e), there was no reportable action taken by the Council.

**A.     CALL TO ORDER / ROLL CALL**

The Regular City Council meeting of February 20, 2002 was called to order by Mayor Pennino at 7:13 p.m.

Present: Council Members – Hitchcock, Howard, Land, Nakanishi, and Mayor Pennino

Absent: Council Members – None

Also Present: City Manager Flynn, City Attorney Hays, and City Clerk Blackston

**B. INVOCATION**

The invocation was given by Natalie Reyes, representative of the Baha'i Faith.

**C. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Mayor Pennino.

**D. AWARDS / PROCLAMATIONS / PRESENTATIONS**

D-1 Awards – None

D-2 (a) Mayor Pennino presented a proclamation to Phyllis Morel, 2<sup>nd</sup> Vice President of the League of Women Voters of San Joaquin County, commending the League of Women Voters for its efforts in creating the Smart Voter Project.

Ms. Morel described the Smart Voter Web site and announced that a candidates' forum for the Board of Supervisors will be held on February 26.

D-2 (b) Mayor Pennino presented proclamations to Patricia Sherman with Animal Friends Connection and Terri Arbuckle, Animal Services Officer at the Lodi Animal Shelter, proclaiming Tuesday, February 26, 2002 as "Spay Day USA" in the City of Lodi.

Ms. Arbuckle stated that discounts toward spay and neutering are available from participating veterinarians, as well as Maddy's Fund. Lodi was one of eight cities that participated in a countywide program in September 2001, from which 685 animals were spayed or neutered. She distributed Lodi Animal Shelter statistics from 2001 to Council (filed).

D-2 (c) Mayor Pennino presented a proclamation to Arilee Pollard, representing the Lodi Garden Club; Kathy Grant, with the Lodi Lake Docents; Steve Dutra, Parks Superintendent; and George Bradley, Street Superintendent, proclaiming "Arbor Day" in the City of Lodi.

Mr. Dutra stated that a committee has been formed in an effort to have Lodi designated as a Tree City USA. It is a community improvement project sponsored by the National Arbor Day Foundation in cooperation with the National Association of State Foresters, U.S. Department of Forest Service, U.S. Conference of Mayors, and the National League of Cities.

Ms. Pollard added that if the committee is successful, Lodi would receive a highway sign for community entrances, a flag, and a plaque acknowledging its designation as a Tree City USA. She announced that an Arbor Day event is scheduled for March 2 at Blakely Park.

D-3 (a) Following introduction of and comments by Mr. Art Raab regarding the "Celebrate Diversity Essay Contest 2002," Mayor Pennino presented Certificates of Recognition to the following winners:

1 <sup>st</sup> Place Winner:	Brandon Wong with entry, "Eliminating Hate Crimes"
2 <sup>nd</sup> Place Winner:	Mallory Josol with entry, "My Youngest Brother"
3 <sup>rd</sup> Place Winner:	Rupinder Sanghera with entry, "We Are All Human"

D-3 (b) Michelle Gau, member of the Greater Lodi Area Youth Commission, acknowledged the Teen of the Month, Tin Nguyen from Bear Creek High School.

Ms. Gau announced that the Greater Lodi Area Youth Conference will be held on March 1; the Teen Lead criminal justice session will take place on March 11; applications for next year's Teen Lead class will be available at high schools in April; four \$500 Youth Commission scholarships are available to high school seniors, with an application deadline of April 1.

D-3 (c) Cynthia Haynes, Community Promotions Coordinator, announced that Lodi Memorial Hospital will host a gala event to celebrate its 50<sup>th</sup> birthday, which will take place on Friday, April 5, 2002 at Hutchins Street Square.

- D-3 (d) Cynthia Haynes, Community Promotions Coordinator, on behalf of the Lodi Area All Veterans' Foundation, invited the public to the dedication of the Lodi Veterans Plaza on Saturday, May 25, 2002. She announced that the Foundation will present its first payment to the City tonight and will make a commitment to make payments on a quarterly basis hereafter.

Steve Jarrett, Treasurer of the Foundation, presented a check to the City in the amount of \$10,000 in repayment of funds forwarded for construction of the Plaza.

- D-3 (e) Cynthia Haynes, Chairman of the United Way Lodi Area Community Council, announced that the "United 4 Youth" two-year grant in the amount of \$130,000 was awarded to the ONEighty teen center, which will celebrate its VIP grand opening and ribbon cutting at 17 West Lockeford Street on Thursday, February 28.

- D-3 (f) Sharon Rieckewald, Early Childcare Education Coordinator for the San Joaquin County Office of Education, reported that they serve as staff support to the Local Childcare Planning Council. They receive \$93,000 a year from the state to provide services. The Childrens Services Coordinating Commission is also associated with the County Office of Education and will be holding an annual symposium on April 15 at Hutchins Street Square. The commission is in charge of a \$1 million grant that is disseminated over a three-year period to direct service providers.

In reply to Council Member Nakanishi, Ms. Rieckewald reported that only 25% of early childcare age children are receiving services, as there are an inadequate amount of facilities to meet the needs of the county.

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E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Council Member Land, Nakanishi second, unanimously approved the following items hereinafter set forth **except those otherwise noted**:

NOTE: Due to a potential conflict of interest related to his employment with Farmers and Merchants Bank, Council Member Land abstained from discussion and voting on Item E-9.

- E-1 Claims were approved in the amount of \$7,364,647.29.
- E-2 The minutes of January 2, 2002 (Regular Meeting) and February 5, 2002 (Shirtsleeve Session) were approved as written. Further, the minutes of January 15, 2002 (Shirtsleeve Session) and January 29, 2002 (Shirtsleeve Session) **were tabled** for further information.
- E-3 Adopted Resolution No. 2002-32 awarding the bid for 384 watthour meters to General Pacific, Inc., of Portland, OR, whose bid was tied for low at \$10,749.48, and which tie was resolved by a coin toss in favor of General Pacific.
- E-4 Approved the plans and specifications for the redecoration of the Sullivan Community Room and Lobby areas of the Lodi Public Library and authorized advertisement for bids.
- E-5 Adopted Resolution No. 2002-33 authorizing City departments to continue to purchase desktop and notebook computers, as budgeted, through fiscal year 2003, in aggregate amounts of \$15,000 or less, from either Micron Electronics or Dell Computers, under competitively-bid contracts respectively awarded by Fairfax County, Virginia (through sponsorship by the US Communities Government Purchasing Alliance), and by the State of New Mexico (through sponsorship by the Western States Contracting Alliance).
- E-6 Adopted Resolution No. 2002-34 authorizing the City Manager to execute a Work Order for amended and additional work performed by Mark Thomas & Co., Inc., for the Kettleman Lane Widening Project; appropriated \$145,000 for this work, and authorized the City Manager to execute future Work Orders as needed.

- E-7 Approved retaining Clark Well, Inc., of Stockton, as a qualified driller for test well professional services for possible City wells on the west side associated with new development and as shown on the Water Master Plan; and appropriated \$80,000 for the project.
- E-8 "Adopt resolution approving the applications to apply for grant funds to operate summer day camp programs at Lodi Lake Park and Lockeford School under the Youth and Family Enrichment Program through the Human Services Agency of San Joaquin County" was **removed from the Consent Calendar and discussed and acted upon under the Regular Calendar.**
- E-9 Approved City of Lodi credit card limits from \$5,000 to \$7,500 for Michael E. Pretz, Fire Chief, and from \$5,000 to \$15,000 for Jerry J. Adams, Police Chief.
- NOTE: Due to a potential conflict of interest related to his employment with Farmers and Merchants Bank, Council Member Land abstained from discussion and voting on this matter.
- E-10 "Adopt resolution authorizing the City Manager to appropriate funds for the Streetlight Completion Project in the amount of \$125,000" was **removed from the Consent Calendar and discussed and acted upon under the Regular Calendar.**
- E-11 Adopted Resolution No. 2002-35 authorizing the City Manager to accept the improvements under the Streetlight Completion Project – Phase II contract and directed the Electric Utility Director to file a Notice of Completion with the County Recorder's office.
- E-12 Set public hearing for March 6, 2002 to consider the re-allocation of Community Development Block Grant funds for the purchase of blighted property located at 17 East Elm Street (APN 043-082-01) and 22 East Locust Street (APN 043-082-02) (Weber property).
- E-13 "Adopt resolution authorizing the City Manager to sign a consulting services agreement with McDonald Partners to provide bulk power cost modeling and strategic advisory services to the Electric Utility Department (not to exceed \$75,000) was **removed from the Consent Calendar and discussed and acted upon under the Regular Calendar.**

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F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

None.

G. PUBLIC HEARINGS

None.

H. COMMUNICATIONS

- H-1 On recommendation of the City's contract administrator, Insurance Consulting Associates, Inc. (ICA), and Human Resources staff, the City Council, on motion of Council Member Land, Howard second, unanimously rejected the following claims:
- a) Eunice Friederich, date of loss 7/6/01
  - b) Kenneth Nellis, date of loss 8/31/01
  - c) Claudette Gaydon, date of loss 1/3/02
- H-2 Reports: Boards/Commissions/Task Forces/Committees – None
- H-3 Appointments – None
- H-4 Miscellaneous
- a) Monthly Protocol Account Report through January 31, 2002 – presented for information only.

I. REGULAR CALENDAR

I-1 "Development Impact Fee Expenditure Report"

City Manager Flynn reported that a question was previously raised about how the staff used Development Impact Fees, and as a result, staff has provided Council with an expenditure report.

Mayor Pro Tempore Hitchcock recommended that consideration of this item be tabled until more information is available, and also to allow additional time for review.

I-2 "Adopt resolution authorizing the City Manager to execute a new franchise service agreement with Central Valley Waste Services, Inc."

Public Works Director Prima stated that last year staff came to Council to report that the agreement with Central Valley Waste Services (CVWS) would expire in two years. Staff was given direction by Council to negotiate a new franchise service agreement with CVWS. Since that time a number of Shirtsleeve Sessions and public meetings have been held on the topic.

The new agreement sets the rates for the next three years with 1.5% increases each year in addition to 80% of the Consumer Price Index for the Bay Area. Insurance coverage has also been increased. Assistance with reports in accordance with AB939 has been addressed in the new agreement. An illegal dumping pick up program has been added, as well as vouchers that would allow one free annual dump at the transfer station. CVWS will dispose of the leaves that the City picks up each winter without additional charge.

Mayor Pennino noted that the Council had received several letters of support to renew the agreement with CVWS.

Council Member Howard questioned the order that the three items on this topic are listed on the agenda, and whether matters addressed in Items I-3 and I-4 could be modified after the contract is approved.

City Attorney Hays explained that the rates are not approved until Council adopts the resolution. The rates listed in the contract are for information purposes. Approving the agreement does not establish the rates because under the ordinance Council can only establish rates by adopting the resolution. The rate stated in the contract is reflective of the "proposed" rate. He confirmed that Council could adopt different rates under Item I-4 after the contract is approved.

Mayor Pro Tempore Hitchcock noted that the previous contract which she believed worked well, was tied to a formula that included replacement of trucks after a period of seven years. She expressed concern that the new agreement does not contain language specifying that equipment must be replaced after a certain period of time and pointed out that complaints have been received by the public about CVWS trucks leaking oil. Ms. Hitchcock stated that she spoke with Tom Sanchez about this issue and he indicated that language could be added to the contract stipulating that equipment older than seven years would be replaced.

Mr. Prima stated that the previous agreement had language about maintaining the trucks in a neat and sanitary condition, which has been included in the new agreement. It did not specify that the trucks would be replaced after seven years. The depreciation method had options as to what period was used. Mr. Prima reported that CVWS has approximately 12 trucks that service Lodi. They replaced one truck last year and plan to replace additional trucks this year.

Mayor Pro Tempore Hitchcock stated that Mr. Sanchez informed her that the previous agreement clearly delineated every cost, including the cost of trucks, and set a profit margin. She emphasized her desire to have specific equipment replacement language included in the new contract.

In response to Council Member Nakanishi, Mr. Prima reported that the refuse collection rates in Lodi are in the middle range when compared to surrounding cities.

Council Member Nakanishi felt that CVWS has done an excellent job. He commented that he serves on the San Joaquin County Solid Waste Management Task Force, on which Tom Horton is Chairman. Mr. Horton has stated that Lodi has one of the best waste removal services in the county.

Council Member Land agreed that CVWS has provided exceptional service to the community. He read the rate formula used in the previous agreement to illustrate its complexity. Mr. Land disclosed that he had spoken with Mr. Sanchez previously about the recommended rate increase, and that he had asked for a ten-year rate history. Referencing page 12 of the agreement, he noted that the vehicle liability insurance does not specify that it be an authorized carrier under the laws of the State of California. He requested that this be included under Section 20, b. He then asked whether the City is being adequately compensated for billing services.

Mr. Prima stated that the City is paid \$230,000 a year for billing services, which he felt was appropriate. This amount will increase by 1.5% as the new rates are instituted.

Finance Director McAthie believed that the amount the City is paid for billing services was equitable.

In reply to Council Member Land, City Manager Flynn explained that the franchise for industrial services is a separate document.

Council Member Land expressed concern about individuals who are physically unable to move their refuse containers to and from their backyards.

Mr. Prima stated that there is no additional charge to qualified disabled individuals for backyard service. Qualification is determined on a case-by-case basis.

Mayor Pennino also stated that CVWS has provided excellent service to the City. He was not in favor of specifying in the agreement that equipment must be replaced every seven years and pointed out that even new trucks can leak oil. He felt that an automatic percentage rate increase eliminates any incentive to reduce costs; however, he would concede, as he believed that 1.5% was less than what inflation would be.

Referencing page 14, Assignments and Subcontracting, section 28, b, Council Member Howard asked what impact reorganizations or mergers would have on the contract and rates.

City Attorney Hays answered that it would have no effect. The merger entity would have to accept the contract as it is structured.

City Manager Flynn explained that it is typical in business practice to have an amortization schedule. It does not necessarily indicate that equipment will be replaced. In private sector business amortization is used for tax purposes. In government practice it is used to measure economic activity within the community. He stated that there was no language in the previous contract, which required that the amortization schedule be used as an equipment replacement schedule.

Tom Sanchez, Regional Manager with CVWS, reported that annual rate increases over a four-year period beginning in 1998 averaged 1.45%; the previous six years averaged

4.38%; the overall ten-year average was 3.79%. In reference to potential mergers, Mr. Sanchez confirmed that such activity would have no effect on the ratepayers. The new contract places the risk of the recycling market on CVWS rather than on the ratepayers.

In answer to Mayor Pro Tempore Hitchcock, Mr. Sanchez indicated that the previous contract used a cost plus profit methodology based on projections.

Kevin Woodward, District Controller with CVWS, explained that as trucks age the depreciation or amortization runs out and maintenance costs increase. There is a point of economic justification for the replacement of a vehicle and it may extend beyond the depreciable life that is applied to the equipment. The older a vehicle becomes, the more maintenance cost is associated with it. He noted that there is a cost associated with equipment whether it is new or used.

Mayor Pro Tempore Hitchcock replied that if amortization is done over a ten-year period the rates should go down. She felt that the proposed contract provides less than the previous one.

PUBLIC COMMENTS:

- Pat Patrick, Chamber of Commerce President and CEO, urged Council to extend the contract with CVWS. He stated that the character of the organization is among the finest and CVWS is one of the best corporate community citizens that Lodi has. In reply to Mayor Pro Tempore Hitchcock, Mr. Patrick stated that he was satisfied with the proposed rates.

Council Member Howard pointed out that if Council changes any of the wording in Item I-3 or the rates in Item I-4, it will change Item I-2.

City Attorney Hays reiterated that the rate setting opportunity for the Council lies with the adoption of the resolution in Item I-4.

- Jim Musgrave stated that he was representing Tiger Lines, Lodi Truck Service, and Schulz & Sons Trucking. He stated that they employ in excess of 300 people and provide transportation services for CVWS from the transfer station to the landfill. He agreed with earlier comments, that problems with vehicles are not necessarily related to their age. He strongly recommended the extension of the CVWS contract.

MOTION:

Council Member Land made a motion, Howard second, to adopt Resolution No. 2002-36 authorizing the City Manager to execute a new franchise service agreement with Central Valley Waste Services, Inc., for solid waste removal, and to include in Section 20, item b of the contract, that the liability insurance carrier be an authorized insurance carrier in the State of California.

DISCUSSION:

Mayor Pro Tempore Hitchcock explained that she would be voting against the motion, not against CVWS. She noted that the 18 letters (filed) the Council received in support of CVWS demonstrates a great deal of satisfaction with their services. She felt that it was a good idea to simplify the rate; however, she believed that the City should have all the provisions that were in the last contract, i.e., related to equipment.

Council Member Nakanishi noted that the only complaint received was about a truck leaking oil and subsequently CVWS stated that they would be getting new trucks. He asked that this be monitored to ensure that their truck replacement is followed through as promised.

VOTE:

The above motion carried by the following vote:

Ayes: Council Members – Howard, Land, Nakanishi, and Mayor Pennino

Noes: Council Members – Hitchcock

Absent: Council Members – None

- I-3 “Introduce ordinance repealing and reenacting Lodi Municipal Code Section 13.16 pertaining to solid waste”

Public Works Director Prima stated that the most significant change in the ordinance is the definition of industrial waste, which is not part of the franchise. He explained that the nature of industrial waste is so varied and open to competition that it does not lend itself to setting a fixed-rate structure. In the past, staff came to Council with an urgency ordinance to adopt the rates in time to meet the methodology deadline. This ordinance would allow rates to be adopted by resolution. Other changes include definitions regarding multi-cart container service and green waste. The franchise fee for industrial waste collection was changed from 4% to 4.8%, which will match what the City charges for the exclusive franchise.

Mayor Pennino pointed out that there appeared to be section-numbering errors in the ordinance and recommended that staff confirm its accuracy.

MOTION / VOTE:

The City Council, on motion of Council Member Land, Nakanishi second, unanimously introduced Ordinance No. 1709 repealing and reenacting Sections 13.16.010 through 13.16.200 to the Lodi Municipal Code pertaining to solid waste.

- I-4 “Adopt resolution approving new rates for solid waste collection”

Public Works Director Prima explained that this resolution sets out the next three years of rates for solid waste collection. Changes include clarification for backyard service and that only the second and third recycling carts will be provided at no additional charge.

In reply to Mayor Pennino's concerns regarding prices per cart and commercial rates, Mr. Prima stated that the fundamental rate structure adopted in 1992 was not changed. They are the same rates with a 1.5% increase; however, the net cost to customers will decrease because of additional services being provided that were not in the previous contract.

Mayor Pro Tempore Hitchcock distributed a summary of refuse collection fees obtained from ordinances adopted from 1981 through 1999 (filed).

At the request of Council Member Nakanishi, Mr. Prima reported that Manteca's rates are approximately \$1.00 a month less than Lodi's. He noted that Manteca does not charge itself a franchise fee. Lodi has about one dozen locations that receive used oil. CVWS would charge \$1.00 a month to every customer for oil recycling service.

Council Member Howard noted that the 1.5% increase is proposed until 2004; however, the contract lasts until 2010. She asked why the percentage increase was not used through the life of the contract.

Tom Sanchez, Regional Manager with CVWS, indicated that 2010 was too far in the future to make projections and estimate costs. CVWS has agreed on 80% of the Consumer Price Index through the life of the contract.

Council Member Howard asked if some of the money from the increase in rates would be spent on donations, consultants, surveys, etc., or whether it is all budgeted specifically for operations and management.

Mr. Sanchez replied that some of the money has been budgeted for consultant services, etc., though most goes toward operations and certain expenditures come out of their profit.



In reply to Mayor Pro Tempore Hitchcock, Mr. Prima explained that the commercial rate decreased because the weight calculation was eliminated.

MOTION / VOTE:

The City Council, on motion of Council Member Land, Nakanishi second, unanimously adopted Resolution No. 2002-37 approving new rates for solid waste collection, which shall take effect on all bills prepared on or after April 8, 2002.

RECESS

At 9:43 p.m., Mayor Pennino called for a recess and the City Council meeting reconvened at 9:54 p.m.

I. REGULAR CALENDAR (Continued)

- I-5 "Adopt resolution supporting Proposition 13 Urban Water Conservation Program Grant Application to retrofit the remainder of flat-rate commercial water services in Lodi with water meters, and authorizing the City Manager to execute applicable agreements"

Public Works Director Prima reported that the Proposition 13 Urban Water Conservation Program grant would allow the City to complete installation of water meters on commercial and industrial properties, a project that was started decades ago, and suspended a number of years back. Since that time the City has installed meters on new commercial and industrial properties; however, there are approximately 300 older accounts that need meters.

In response to Council inquiries about grant money for residential property, Mr. Prima stated that the City could apply for both commercial and residential meters, though he recommended separating the applications. He explained that the grant does not require a match; however, it is part of the evaluation criteria and staff believed that one-third (part of which would be in-house labor) was a reasonable amount.

Council Member Howard stated that she was glad to know that the Mayor would support metering residential property if grant money were available and noted she and Mayor Pro Tempore Hitchcock had voiced their support in the past for metering residential property.

Council Member Land stated that he would oppose a grant application for metering residential property, as he believed that it would be one step closer to charging a rate for metered water. He supported the proposed grant application for commercial property, explaining that they use a huge volume of water and consequently have more incentive to conserve. Commercial accounts can include rates in their projections and in the cost of their products. He opposed metering residential properties because of the negative effect it would have on the landscape aesthetics of the community.

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Hitchcock, Howard second, unanimously adopted Resolution No. 2002-38 supporting the City of Lodi application for a Consolidated Water Use Efficiency 2002 – Proposition 13 Urban Water Conservation Program – Urban Water Capital Outlay Grant to retrofit the remainder of approximately 300 flat-rate commercial (non-residential) water customers in Lodi with water meters; and authorizing the City Manager to execute any agreements or contracts pertaining to the above proposal.

- I-6 "Authorize City Manager to approve payment to the Downtown Lodi Business Partnership in the amount of \$15,000 reimbursing for collection services, fiscal years 2000-2001 and 2001-2002"

City Manager Flynn reported that approximately four years ago the Council adopted an ordinance, which specified that the City would bill and collect fees at no charge to the

Downtown Lodi Business Partnership (DLBP); however, due to an agreement with DLBP they had assumed the responsibility. They now wish to recover \$15,000 (\$7,500 per year) for their billing and collection services. Staff recommends payment to the DLBP as requested and from this time forward the City will assume billing and collections as specified in the ordinance.

In reply to Council Member Howard, Finance Director McAthie stated that she believed it would have cost less than \$7,500 for the City to provide billing and collections service for the DLBP. She estimated that the billing could be done by one person in one day. Collections are handled by the Credit Bureau. Ms. McAthie and Mr. Flynn stated that when the DLBP requested to handle the billing and collections, they had not informed the City that they would expect to receive reimbursement at a later time for the service.

Peter Westbrook explained that the DLBP had a different president at the time they agreed to handle the billing and collections. He reported that the City handled the 1998 billing and the DLBP took over collections of approximately \$15,000. The following year the DLBP requested to assume the billing in addition to the collections and the City agreed. Since that time the DLBP has discovered that for various reasons they no longer wish to handle the billing and collections. To date there are \$45,000 in fees that have not been paid or collected. Lew Van Buskirk, Executive Director of the DLBP, spent 20% of his time (estimated at a value of \$7,000) related to billing and collections. Mr. Westbrook believed that the DLBP's cost to handle these services far exceeded the \$7,500 now being billed to the City. He reported that the DLBP billed for the fiscal/calendar years of 1999, 2000, 2001, and 2002.

In answer to Mayor Pro Tempore Hitchcock, Mr. Westbrook stated the DLBP believes they are entitled to compensation for the collections they had done for four years. Still outstanding is one year's billing and a portion of 1998 in which the City handled billing and the DLBP assumed collections.

MOTION / VOTE:

The City Council, on motion of Council Member Land, Nakanishi second, unanimously authorized the City Manager to approve payment to the Downtown Lodi Business Partnership in the amount of \$15,000.

- I-7 "Property owner hearing, consider adoption of Resolution of Public Interest and Necessity, authorizing exercise of eminent domain power to acquire property located at 307 West Elm Street (APN 037-270-17) for new Public Safety Building"

City Attorney Hays explained that, based on action disclosed under Item C-2 (b), this Item no longer needed to be pursued.

MOTION / VOTE:

No action was taken or needed by the City Council.

- I-8 "Adopt resolution authorizing the City Manager to appropriate funds in the amount of \$15,000 to fund the Lodi All Emergency Preparedness Expo"

Rob Lechner, Electric Utility Manager of Customer Programs, reported that in October 2001, then Mayor Nakanishi, requested that staff consider conducting an All Emergency Preparedness Expo event to coincide with Earthquake Preparedness Week, which takes place in the month of April. Mr. Lechner announced that the Expo has been planned for Saturday, April 13 at the Lodi Grape Festival grounds from 9:00 a.m. to 4:00 p.m. It will be a free event open to the public. Staff estimates that the Expo will cost up to \$15,000 for advertising, banners, posters, food, etc. A committee has been formed to coordinate the event and is pursuing monetary donations as well as in-kind donations of food and beverages. Invitations will be mailed to 150-200 vendors. A determination will be made

on whether to pursue the Expo as an annual event, based upon responses received from the committee's post-event survey.

Council Member Howard suggested that events with similar themes be combined to prevent repetition and economize on resources.

In reply to Mayor Pro Tempore Hitchcock, Mr. Lechner reported that since late November 2001, the committee has met for approximately one and a half hours every two weeks, with each member devoting two hours each week on event planning. Mr. Lechner stated that as the chairman of the committee, he spends four to five hours each week on the project.

Council Member Nakanishi explained that the purpose for the All Emergency Preparedness Expo is to educate residents of Lodi on what to do in the event of an emergency and to demonstrate that the City is prepared for such situations. He had originally thought of the idea after attending a U.S. Conference of Mayors seminar last year on the topic of weapons of mass destruction, and hearing citizen concerns following the September 11, 2001 terrorist incidents.

MOTION / VOTE:

The City Council, on motion of Council Member Nakanishi, Hitchcock second, unanimously adopted Resolution No. 2002-39 authorizing the City Manager to appropriate funds in the amount of \$15,000 (not to exceed figure) for the Lodi All Emergency Preparedness Expo, to be held Saturday, April 13, 2002 at the Lodi Grape Festival Grounds.

- I-9 "Adopt resolution authorizing the City Manager to provide a Public Benefits Program Grant in the amount of \$23,482.93 to fund the Kettleman Court Apartments Demand-side Management Project"

Rob Lechner, Electric Utility Manager of Customer Programs, reported that this Public Benefits Grant reflects 20% of the investment that property owners of the Kettleman Court Apartments made in energy efficient improvements.

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Hitchcock, Howard second, unanimously adopted Resolution No. 2002-40 authorizing the City Manager to provide a Public Benefits Program Grant in the amount of \$23,482.93 to fund the Kettleman Court Apartments Demand-side Management Project.

- I-10 "Adopt resolution authorizing the City Manager to provide a Public Benefits Program Grant in the amount of \$75,000 to fund the Lodi Refrigerator/Freezer Environmental Recycling Project, and to execute a contract with JACO Inc., to manage the project"

Rob Lechner, Electric Utility Manager of Customer Programs, requested that this item be pulled from the agenda because there is an indemnification clause that staff wishes to add to the contract, and the Risk Manager has not yet had an opportunity to review it.

City Attorney Hays added that additional investigation is also needed in regard to JACO and its functioning with the Sacramento Municipal Utility District (SMUD).

In answer to Mayor Pro Tempore Hitchcock, Mr. Lechner explained that the Lodi Refrigerator/Freezer Environmental Recycling Project is open to the general community. Rebates of \$50 per customer are available and the Utility anticipates providing 400 in a month's time.

- I-11 "Adopt resolution authorizing the City Manager to provide a Public Benefits Program Grant in the amount of \$7,100 to fund the Social Security Office Demand-side Management Project"

Rob Lechner, Electric Utility Manager of Customer Programs, reported that \$7,100 reflects a 20% match from the Public Benefits Program for energy efficiency air conditioning units and digital thermostats that were installed in the Social Security Office.

Council Member Nakanishi questioned the practice of giving Public Benefits Program grant money to the federal government.

Mr. Lechner stated that the Social Security Office will be paying into the Public Benefits Program once in operation, and qualify as any other commercial account.

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Hitchcock, Howard second, adopted Resolution No. 2002-41 authorizing the City Manager to provide a Public Benefits Program Grant in the amount of \$7,100 to fund the Social Security Office Demand-side Management Project. The motion carried by the following vote:

Ayes: Council Members – Hitchcock, Howard, Land, and Mayor Pennino

Noes: Council Members – Nakanishi

Absent: Council Members – None

- E-8 "Adopt resolution approving the applications to apply for grant funds to operate summer day camp programs at Lodi Lake Park and Lockeford School under the Youth and Family Enrichment Program through the Human Services Agency of San Joaquin County"

Council Member Hitchcock questioned why the City is involved in projects outside Lodi and pointed out that even if the grant pays for the program, the City will be contributing staff time to its administration. She noted that the City is also handling an after school program in Lockeford.

City Manager Flynn reported that there are a number of things the City cooperates on with the Lodi Unified School District (LUSD). The City is serving only as a conduit for these programs and is reimbursed for the program and administration costs.

Parks and Recreation Director Baltz provided assurance to Council that his staff would monitor this program to ensure that it does not detract from their primary mission of providing services within the City of Lodi. He explained that this is a mini-grant from the Human Services Agency. He added that there is an element of being "a good neighbor" associated with these programs, as they are partners with LUSD, the Human Services Agency, and the County.

Council Member Howard expressed her opinion that this type of grant should be used to encourage Clements and Lockeford to start their own programs. She preferred that Lodi not be involved in an ongoing long-term basis, and believed that the County should use the funds to help these communities start up programs so that they can grow and develop on their own. She explained that she would vote in favor of this item; however, discussions with the Human Services Agency regarding autonomy of these programs would be desirable.

Mayor Pro Tempore Hitchcock agreed with Ms. Howard's statements. She stated that a recent newspaper article described Supervisor Sieglock's plan to form a Municipal Advisory Council and she hoped that this would result in the County being more involved in these programs.

Mayor Pennino supported staff's recommendation on this item and suggested that discussions with the County take place next year to address Council's concerns.

Council Member Nakanishi also concurred with Ms. Howard's comments.

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Hitchcock, Land second, unanimously adopted Resolution No. 2002-42 approving the grant applications to apply for grant funds to operate summer day camp programs at Lodi Lake Park and Lockeford School under the Youth and Family Enrichment Program through the Human Services Agency of San Joaquin County.

- E-10 "Adopt resolution authorizing the City Manager to appropriate funds for the Streetlight Completion Project in the amount of \$125,000"

In response to Council Member Nakanishi, Electric Utility Director Vallow reported that the Streetlight Completion Project design is 30% complete, and installation is 20% to 25% complete. He believed the overall cost of the project would be just over \$3 million.

In answer to Mayor Pro Tempore Hitchcock, Mr. Vallow stated that funding for this item is in the capital budget as well as the 1999 bond disclosure document.

MOTION / VOTE:

The City Council, on motion of Council Member Nakanishi, Hitchcock second, unanimously adopted Resolution No. 2002-43 authorizing the City Manager to appropriate funds for the Streetlight Completion Project in the amount of \$125,000.

- E-13 "Adopt resolution authorizing the City Manager to sign a consulting services agreement with McDonald Partners to provide bulk power cost modeling and strategic advisory services to the Electric Utility Department (not to exceed \$75,000)"

In reply to questions posed by Mayor Pro Tempore Hitchcock, Electric Utility Director Vallow explained that the Northern California Power Agency (NCPA) optimizes resources for the pool as if it were one utility. Traditionally, Lodi Electric Utility was benefited by that in the long-term; however, last year's market volatility changed the Utility's strategy toward a need for more forecasting and diligence. He stated that volatility still continues and he believed the market would never return to its former condition. Mr. Vallow clarified that there still remains long-term safety in the NCPA pool structure.

MOTION:

Mayor Pro Tempore Hitchcock made a motion, Nakanishi second, to adopt Resolution No. 2002-44 authorizing the City Manager to sign a consulting services agreement for professional services with McDonald Partners to provide production cost modeling and strategic advisory services to the Electric Utility Department up to a maximum of \$75,000.

DISCUSSION:

In response to Council Member Nakanishi, Mr. Vallow reported that the Utility is planning on changing the Market Cost Adjustment within the next two months. He projected that Lodi's rates will continue to be lower than investor owned utilities.

VOTE:

The above motion carried by a unanimous vote.

J. ORDINANCES

None.

K. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- Council Member Nakanishi wished City Manager Flynn a happy birthday.
- Mayor Pro Tempore Hitchcock thanked Mayor Pennino and Stockton Mayor Podesto for sending a letter to citizens advocating the Measure K school bond.

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- Mayor Pennino encouraged all citizens to vote for Measure K. He commented that he read "Farewell to Manzanar," which is the topic of the One Book One Lodi event sponsored by the Lodi Arts Commission.

L. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

- City Manager Flynn stated that a vote to pass the school bond is also a vote to improve the market value of Lodi homes. He announced that February 27 is Police Chief Adam's birthday.

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 10:59 p.m.

ATTEST:

Susan J. Blackston  
City Clerk